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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,127	09/10/2003	MICHAEL LUBELL	1082.001	2126
36790	7590	07/10/2008		
TILLMAN WRIGHT, PLLC PO BOX 471581 CHARLOTTE, NC 28247			EXAMINER RANGREJ, SHEETAL	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/605,127	Applicant(s) LUBELL ET AL.	
	Examiner SHEETAL R. RANGREJ	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Prosecution History Summary

- Claims 1-7 are canceled.
- Claims 8, 10, 24, and 26 are amended.
- Claims 8-27 are pending.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/26/2008 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1 and 24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The Applicant does not provide enough description to convey whereby a person's medical history can be recoded, updated, and accessed using the electronic device without the

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need for special software preinstalled on the electronic device, and without the need for access to a website or to a database of medical records that is external to the apparatus.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 1 and 24 recite the limitation "whereby a person's medical history can be recorded, updated, and accessed using the electronic device without the need for special software preinstalled on the electronic device, and without the need for access to a website or to a database of medical records that is external to the apparatus." The examiner is unable to interpret how the medical history can be recorded, updated, and accessed using the device without the need for special software. The examiner is further unable to determine what constitutes a "special" software. For examination purposes, the examiner interprets a person's medical history can be recorded, updated, and accessed using the electronic device.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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2. Claims 8-11, 13-21, and 24-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Honda et al. (U.S. Patent No. 6,021,393).

3. As per claim 8, Honda teaches a portable, hand carried apparatus comprising a combination of hardware and software sufficient to record, update, and access a person's medical history using an electronic device having a processor that is capable of accessing the apparatus without the need for special software, and without the need for access to a website or to a database of medical records, that is external to the apparatus (**Honda: abstract**), the apparatus comprising:

(a) machine-readable memory (**Honda: figure 7A & 7B**) and a USB connector connectible to a USB port of an electronic device for access to the machine-readable memory of the apparatus by the electronic device (**Honda: col. 5, 21-40**). The examiner interprets I/O interfaces to include a USB port and the optical card read/write device to have a USB connector connectible to a USB port;

(b) machine-executable instructions contained in the machine-readable memory and constituting a program executable by the electronic device for performing a method comprising the steps of,

(i) storing medical records in a secure database in the machine-readable memory of the portable, hand carried apparatus (**Honda: col. 1, 66 to col. 2, 4**),

(ii) updating the medical records in the secure database in the machine-readable memory of the portable, hand carried apparatus (**Honda: col. 2, 38-48**), and

(iii) providing access to the medical records in the secure database in the machine-readable memory of the portable, hand carried apparatus (**Honda: col. 3, 47-58**).

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(iv) providing a graphical user interface for selectively recording, updating, and accessing a person's medical history by a use of the electronic device (Honda: col. 4, 62 to col. 5, 35);

(c) whereby a person's medical history can be recorded, updated, and accessed using the electronic device without the need for special software preinstalled on the electronic device, without the need for access to a website or a database of medical records that is external to the apparatus (Honda: col. 5, 36-40; col. 5, 49 to col. 6, 5; abstract).

4. As per claim 9, the apparatus of claim 8 is as described. Honda further teaches wherein the program stores (Honda: col. 1, 66 to col. 2, 4), updates (Honda: col. 2, 38-48), and provides access to medical records (Honda: col. 3, 47-58) only for a single individual (Honda: col. 1, 13-16).

5. As per claim 10, the apparatus of claim 8 is as described. Honda further teaches further comprising data contained in the machine-readable memory (Honda: figure 7A-7B) and constituting the secure database of medical records (Honda: col. 2, 38-47), which the program stores (Honda: col. 1, 66 to col. 2, 4) and updates (Honda: col. 2, 38-48), and to which the program provides access (Honda: col. 3, 47-58).

6. As per claim 11, the apparatus of claim 10 is as described. Honda further teaches wherein the secure database is encrypted (Honda: col. 2, 48-57).

7. As per claim 13, the apparatus of claim 8 is as described. Honda further teaches wherein said step (i) of storing medical records comprises inputting medical information into the program (Honda: col. 4, 40-48; col. 4, 53-61).

8. As per claim 14, the apparatus of claim 8 is as described. Honda further teaches wherein said step (i) of storing medical records comprises inputting medical information into the program by scanning, keying, or downloading (**Honda: col. 4, 40-48; col. 4, 53-61**).

9. As per claim 15, the apparatus of claim 8 is as described. Honda further teaches wherein said step (i) of storing medical records comprises importing medical information into the program from various file formats (**Honda: col. 5, 21-40; col. 5, 52-54; figure 5**).

10. As per claim 16, the apparatus of claim 8 is as described. Honda further teaches wherein said step (ii) of updating medical records comprises appending medical information to a medical record without deleting any medical information existing in the medical record (**Honda: col. 5, 21-40; col. 5, 52-54; figure 5**).

11. As per claim 17, the apparatus of claim 8 is as described. Honda further teaches wherein the program does not provide the functionality of deleting medical information in the secure database (**Honda: col. 8, 40-50**).

12. As per claim 18, the apparatus of claim 8 is as described. Honda further teaches wherein the program does not provide the functionality of deleting a medical record from the secure database (**Honda: col. 8, 40-50**).

13. As per claim 19, the apparatus of claim 8 is as described. Honda further teaches wherein the electronic device comprises a PC, and wherein said step (iii) of providing access comprises outputting a medical record from the secure database to the PC (**Honda: col. 7, 64 to col. 8, 6**).

14. As per claim 20, the apparatus of claim 8 is as described. Honda further teaches wherein said step (iii) of providing access comprises printing (**Honda: claim 8**) and displaying medical information (**Honda: col. 7, 64 to col. 8, 6**) from one or more medical records in the secure

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database. The examiner interprets that providing the printer is the same as providing access to printing a medical record.

15. As per claim 21, the apparatus of claim 8 is as described. Honda further teaches wherein the method performed by the program further comprises the step of displaying a person's medical history when the USB connector is connected to a USB port of the electronic device (**Honda: col. 5, 21-40**).

16. For claims 24 and 26, please see the citations of claim 8.

17. As per claim 25, the device of claim 24 is as described. Honda further teaches wherein the memory device comprises a flash memory card (**Honda: figure 7A & 7B**).

18. For claim 27, please see citations of claim 25.

Claim Rejections - 35 USC § 103

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claims 12 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Honda et al. (U.S. Patent No. 6,021,393) in view of Eberhardt (U.S. Patent No. 5,832,488).

21. As per claim 12, the apparatus of claim 10 is as described. Honda further teaches wherein the secure database includes information pertinent to the treatment of a person, comprising:

(a) personal information including name, address, phone, and emergency contact information (**Honda: figure 3, C**);

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(b) emergency medical information including medical alerts, blood type, allergies (**Honda: col. 6, 18-21**)

(c) current medical information including primary physician contact, medical conditions, medications, and treatments (**Honda: col. 6, 12-14; col. 6, 16-18**);

(d) historical medical information including a log of medical office visits, physicians, images from medical scans, a log of vital statistics, immunizations, and surgeries (**Honda: col. 6, 20-26**).

Honda does not teach wherein the secure database includes information pertinent to the treatment of a person, comprising: (e) insurance information including referral letters.

Eberhardt teaches wherein the secure database includes information pertinent to the treatment of a person, comprising: (e) insurance information including referral letters (**Eberhardt: claim 4**).

One of ordinary skill in the art at the time the invention was made would have found it obvious to combine the teachings of Honda with Eberhardt with the motivation that the computer system makes it possible for an individual's medical history to be "read" from the card and displayed on the computer (**Eberhardt: col. 1, 27-34**).

22. As per claim 22, the apparatus of claim 8 is as described. Honda does not teach further teaches wherein the program further performs the steps of dating and time stamping added medical information and the identification of the party adding the medical information.

Eberhardt teaches further teaches wherein the program further performs the steps of dating and time stamping added medical information and the identification of the party adding the medical information (**Eberhardt: col. 10, 52-62**).

The motivation to combine the teachings is the same as claim 12.

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23. As per claim 23, the apparatus of claim 22 is as described. Honda does not teach wherein the program further performs the steps of generating a report of medical information added to the secure database, the report including the party that added the medical information and the date and time that such medical information was added to the secure database.

Eberhardt teaches wherein the program further performs the steps of generating a report of medical information added to the secure database, the report including the party that added the medical information and the date and time that such medical information was added to the secure database (**Eberhardt: col. 10, 52-62**).

The motivation to combine the teachings is the same as claim 12.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHEETAL R. RANGREJ whose telephone number is (571)270-1368. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sheetal R. Rangrej/
Examiner, Art Unit 3626

/C Luke Gilligan/
Supervisory Patent Examiner, Art Unit 3626